

AMENDED IN ASSEMBLY MAY 12, 2009  
AMENDED IN ASSEMBLY MARCH 24, 2009  
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 340**

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**Introduced by Assembly Member Knight**

February 18, 2009

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An act to add *and repeal* Sections ~~17053.80 and 23623~~ to 17053.81 and 23623.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 340, as amended, Knight. Income taxes: credits: hiring credit.

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, under both laws, for taxable years beginning on and after January 1, 2009, *and before January 1, 2013*, authorize a credit to a qualified employer of either \$3,000 or \$5,000, as specified, for each qualified employee, as defined, employed by the qualified employer during the taxable year.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section ~~17053.80~~ 17053.81 is added to the
- 2 Revenue and Taxation Code, to read:

1     ~~17053.80.~~

2     17053.81. (a) (1) For each taxable year beginning on or after  
3 January 1, 2009, *and before January 1, 2013*, there shall be allowed  
4 as a credit against the “net tax,” as defined in Section 17039, an  
5 amount as specified in paragraph (2) per each qualified employee  
6 employed during the taxable year by a qualified employer.

7     (2) The credit allowed by paragraph (1) shall be equal to three  
8 thousand dollars (\$3,000), or if the wage of the qualified employee  
9 for which a tax credit authorized pursuant to this section is claimed  
10 is 200 percent or more than the average wage in the county in  
11 which the qualified employee ~~is located~~ *completes a majority, or*  
12 *at least 50 percent, of his or her work*, five thousand dollars  
13 (\$5,000).

14     (b) For purposes of this section:

15     (1) “Average wage” means the wage average of each county,  
16 as determined by the Employment Development Department.

17     ~~(1) “Headquarters” means the principal central~~

18     (2) “Headquarters” means the principal administrative office  
19 in California of a qualified employer that employs 30 or more  
20 qualified employees at that office.

21     ~~(2) “Qualified employee” means an employee who is a resident~~  
22 ~~of California that is employed by the qualified employer on a~~  
23 ~~qualified job.~~

24     (3) “Qualified employee” means an employee who was paid  
25 qualified wages by the qualified employer for services rendered  
26 for not less than an average of 35 hours per week.

27     ~~(3)~~

28     (4) “Qualified employer” means a taxpayer that is a person  
29 engaged in a trade or business within California that has either  
30 established a headquarters within California or relocated a  
31 headquarters to California, *and, as of the last day of the preceding*  
32 *taxable year, employed a total of 30 or more employees.*

33     ~~(4)~~

34     (5) “Qualified job” means employment located at the qualified  
35 employer’s headquarters that is full-time employment, as defined  
36 by law and regulation, and that pays wages that equal or exceed  
37 the average wage in the county in which the headquarters are  
38 located.

1 (6) *“Qualified wages” means the amount of wages subject to*  
2 *Chapter 6 (commencing with Section 13000) of Part 6 of Division*  
3 *6 of the Unemployment Insurance Code.*

4 ~~(5)~~

5 (7) (A) An employee of a corporation that is a member of a  
6 controlled group of corporations shall be treated as employed by  
7 a single taxpayer.

8 (B) For purposes of this paragraph, “controlled group of  
9 corporations” has the same meaning as provided in Section 1563(a)  
10 of the Internal Revenue Code, except that both of the following  
11 apply:

12 (i) “More than 50 percent” shall be substituted for “at least 80  
13 percent” each place it appears in Section 1563(a)(1) of the Internal  
14 Revenue Code.

15 (ii) Sections 1563(a)(4) and 1563(e)(3)(C) of the Internal  
16 Revenue Code shall not apply.

17 ~~(6)~~

18 (8) The Franchise Tax Board may prescribe appropriate  
19 regulations to carry out the purposes of this section, including any  
20 regulations necessary to ~~avoid the application of this paragraph~~  
21 *prevent the avoidance of the purposes of this section* through  
22 split-ups, shell corporations, partnerships, tiered ownership  
23 structures, or otherwise.

24 (c) The credit authorized by this section shall be ~~available~~  
25 *allowable* to a qualified employer for the first taxable year in which  
26 the qualified employer’s headquarters are established within, or  
27 relocated to, California, and the succeeding taxable year.

28 (d) In the case where the credit allowed under this section  
29 exceeds the “net tax,” the excess may be carried over to reduce  
30 the “net tax” in the following year, and the succeeding 10 years if  
31 necessary, until the credit has been exhausted.

32 ~~(e) Any deduction otherwise allowed under this part for qualified~~  
33 ~~wages shall not be reduced by the amount of the credit allowed~~  
34 ~~under this section.~~

35 (e) *The credit allowed by this section shall be in lieu of any*  
36 *other credit or deduction that the taxpayer may otherwise claim*  
37 *pursuant to this part with respect to qualified wages.*

38 (f) *This section shall remain in effect only until December 1,*  
39 *2013, and as of that date is repealed.*

SEC. 2. Section ~~23623~~ 23623.2 is added to the Revenue and Taxation Code, to read:

~~23623.~~

23623.2. (a) (1) For each taxable year beginning on or after January 1, 2009, *and before January 1, 2013*, there shall be allowed as a credit against the “tax,” as defined in Section 23036, an amount as specified in paragraph (2) per each qualified employee employed during the taxable year by a qualified employer.

(2) The credit allowed by paragraph (1) shall ~~not~~ be equal to three thousand dollars (\$3,000) or, if the average wage of the qualified employee for which a tax credit authorized pursuant to this section is claimed is 200 percent or more than the average wage in the county in which the qualified employee ~~is located~~ *completes a majority, or at least 50 percent, of his or her work*, five thousand dollars (\$5,000).

(b) For purposes of this section:

(1) “Average wage” means the wage average of each county, as determined by the Employment Development Department.

~~(1) “Headquarters” means the principal central~~

(2) “Headquarters” means the principal administrative office in California of a qualified employer that employs 30 or more qualified employees at that office.

~~(2) “Qualified employee” means an employee who is a resident of California that is employed by the qualified employer on a qualified job.~~

(3) “Qualified employee” means an employee who was paid qualified wages by the qualified employer for services rendered for not less than an average of 35 hours per week.

~~(3)~~

(4) “Qualified employer” means a taxpayer that is a person engaged in a trade or business within California that has either established its headquarters within California or relocated its headquarters to California, *and, as of the last day of the preceding taxable year, employed a total of 30 or more employees.*

~~(4)~~

(5) “Qualified job” means employment located at the qualified employer’s headquarters that is full-time employment, as defined by law and regulation, and that pays wages that equal or exceed the average wage of the county in which the headquarters are located.

1 (6) *“Qualified wages” means the amount of wages subject to*  
2 *Chapter 6 (commencing with Section 13000) of Part 6 of Division*  
3 *6 of the Unemployment Insurance Code.*

4 ~~(5)~~

5 (7) (A) An employee of a corporation that is a member of a  
6 controlled group of corporations shall be treated as employed by  
7 a single taxpayer.

8 (B) For purposes of this paragraph, “controlled group of  
9 corporations” has the same meaning as provided in Section 1563(a)  
10 of the Internal Revenue Code, except that both of the following  
11 apply:

12 (i) “More than 50 percent” shall be substituted for “at least 80  
13 percent” each place it appears in Section 1563(a)(1) of the Internal  
14 Revenue Code.

15 (ii) Sections 1563(a)(4) and 1563(e)(3)(C) of the Internal  
16 Revenue Code shall not apply.

17 ~~(6)~~

18 (8) The Franchise Tax Board may prescribe appropriate  
19 regulations to carry out the purposes of this section, including any  
20 regulations necessary to ~~avoid the application of this paragraph~~  
21 *prevent the avoidance of the purposes of this section* through  
22 split-ups, shell corporations, partnerships, tiered ownership  
23 structures, or otherwise.

24 (c) The credit authorized by this section shall be ~~available~~  
25 *allowable* to a qualified employer for the first taxable year in which  
26 the qualified employer’s headquarters are established within, or  
27 relocated to, California, and the succeeding taxable year.

28 (d) In the case where the credit allowed under this section  
29 exceeds the “tax,” the excess may be carried over to reduce the  
30 “tax” in the following year, and the succeeding 10 years if  
31 necessary, until the credit has been exhausted.

32 ~~(e) Any deduction otherwise allowed under this part for qualified~~  
33 ~~wages shall not be reduced by the amount of the credit allowed~~  
34 ~~under this section.~~

35 (e) *The credit allowed by this section shall be in lieu of any*  
36 *other credit or deduction that the taxpayer may otherwise claim*  
37 *pursuant to this part with respect to qualified wages.*

38 (f) *This section shall remain in effect only until December 1,*  
39 *2013, and as of that date is repealed.*

1       SEC. 3. This act provides for a tax levy within the meaning of  
2       Article IV of the Constitution and shall go into immediate effect.

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